

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAMILARE SONOIKI,

Plaintiff,

v.

HARVARD UNIVERSITY, HARVARD
UNIVERSITY BOARD OF OVERSEERS,
and THE PRESIDENT AND FELLOWS OF
HARVARD COLLEGE,

Defendants.

Civil Action No. 1:19-cv-12172

**[ASSENTED TO] MOTION TO FILE HARVARD’S MEMORANDUM OF LAW IN
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT REDACTED, AND
ATTORNEY DECLARATION UNDER SEAL**

Pursuant to Local Rule 7.2, Defendants Harvard University, Harvard University Board of Overseers, and the President and Fellows of Harvard College (together “Harvard”) hereby move for leave to file a redacted version of its Memorandum of Law in Support of its Motion for Summary Judgment. Harvard further moves for permission to file the Declaration of David Cohen and accompanying exhibits under seal. As explained below, the materials relevant to Harvard’s Motion for Summary Judgment contain confidential and intimately private information about Plaintiff and non-parties. Counsel for Harvard has conferred with counsel for Plaintiff, who has indicated that Plaintiff assents to the relief herein requested. In support hereof, Harvard states as follows:

1. The Court entered an agreed-upon Protective Order between Plaintiff and Harvard on October 26, 2022. Dkt No. 70.

2. Pursuant to the Protective Order, the parties were permitted to, and did, designate deposition testimony, deposition exhibits, and all other Discovery Material— defined as “any

information in any form (including without limitation, a document, electronically stored information, witness testimony, or response to written discovery) that is produced or generated in disclosures or responses to discovery in this matter, or appended to pleadings in this matter (whether or not produced)—as “Confidential.” *See id.* at ¶¶ 2, 11.

3. The Protective Order further provides that Confidential Information cannot be filed in the public record in this action without an agreement between the parties to file the material with agreed-upon redactions or to waive the “Confidential Information” designation. *See id.* at ¶ 20.

4. Harvard’s Memorandum of Law in Support of its Motion for Summary Judgment includes citations to, and quotes from, Confidential Information.

5. To date, the parties have agreed to a procedure where Harvard files certain confidential and sensitive documents under seal, along with a redacted version of its memoranda. *See* ECF Nos. 112, 115, 122, 126, 136, 138.

6. Harvard seeks to follow the same procedure here, and Plaintiff has assented to this procedure.

7. With the Court’s permission, Harvard will submit its Memorandum of Law in Support of its Motion for Summary Judgment through ECF¹ with limited redactions of portions of the Memorandum of Law that quote or cite material and testimony previously designated as “Confidential” in accordance with the Protective Order. Harvard will also submit to the Court an unredacted version of the Memorandum of Law under seal.

¹ Pursuant to the Court’s Standing Order Regarding Briefing of Summary Judgment Motions, the parties will file a unified statement of material undisputed facts concurrently with Plaintiff’s opposition to summary judgment. The parties will file a redacted unified statement of material undisputed facts at that time along with an accompanying motion to seal.

8. Counsel for Harvard has met and conferred with counsel for Plaintiff concerning the Declaration of David Cohen and accompanying exhibits, and Plaintiff's counsel does not oppose Harvard's request to file the entire declaration and accompanying exhibits under seal. The exhibits accompanying the declaration consist of deposition testimony which has been designated as "Confidential," documents and information protected against disclosure by the Family Educational Rights and Privacy Act ("FERPA"), and other personal and private information about Plaintiff and third parties. To the extent that the exhibits contain documents that are not designated as "Confidential," any such materials are sparse and definitively intertwined with the protected documents, and separating the information would eliminate necessary context and be burdensome.

9. Harvard has identified certain exhibits that are not confidential and will file those documents publicly as exhibits to the Declaration of Anton Metlitsky.

WHEREFORE, Harvard respectfully requests that the Court grant this Motion and allow the Memorandum of Law to be filed redacted and under seal, and the Declaration of David Cohen and accompanying exhibits to be filed under seal, as described herein.

Dated: May 30, 2023

Respectfully submitted,

/s/ Rebecca M. O'Brien

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Fellows of Harvard College*

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

The undersigned counsel hereby certifies that Harvard's counsel has conferred in good faith with counsel for Plaintiff regarding the foregoing Motion. Plaintiff, through counsel, has indicated that he assents to the relief requested.

/s/ Rebecca M. O'Brien

Rebecca M. O'Brien

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 30, 2023.

/s/ Rebecca M. O'Brien

Rebecca M. O'Brien